

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MICHAEL TODD BOTELHO,

Case No. 3:22-cv-00191-MMD-CLB

**Petitioner,**

## ORDER

v.

OFFICE OF THE WARDEN, *et al.*,

## Respondents.

Petitioner Michael Todd Botelho proceeding *pro se* has filed a purported habeas petition that is not on the court-required form. (ECF No. 1-1.) In addition, Botelho has not properly commenced this habeas action by either paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* (“IFP”).

Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. The Court may authorize an indigent prisoner to begin a habeas action without paying the \$5 fee if he or she submits an IFP application on the approved form and includes three specific documents: (a) the prisoner's financial declaration and acknowledgement showing an inability to prepay fees and costs, (b) a financial certificate signed by the prisoner and an authorized prison official, and (c) a copy of the prisoner's account statement for the six-month period prior to filing. See 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

Botelho will have 45 days from the date of this order to either pay the \$5 filing fee or submit a complete IFP application with all required documentation.

To the extent Botelho is raising a challenge to his conviction, his petition is subject to substantial defects requiring amendment. Botelho did not file a petition on the appropriate form or in substantial compliance with the form. The form is important as it provides the Court with necessary information to conduct preliminary review of the petition.

1 He asserts that he is a sovereign citizen that is being held hostage in violation of 18 USC  
2 § 1203. (ECF No. 1-1 at 2.) Botelho did not submit the Court's form petition but, instead,  
3 hand-wrote a petition on blank paper. His hand-written petition fails to disclose the required  
4 information. Accordingly, Botelho must, within 45 days of the date of this order, file an  
5 amended petition for habeas corpus relief on the Court's form.<sup>1</sup> In doing so, Botelho is  
6 advised to follow the instructions on the form and to refrain from lengthy legal or factual  
7 argument. Botelho must clearly title the amended petition as such, and he must place the  
8 case number, 3:22-cv-00191-MMD-CLB, in the designated space.

9 It is therefore ordered that the initial screening of Petitioner Michael Todd Botelho's  
10 Petition for Writ of Habeas Corpus (ECF No. 1-1) under the Rules Governing Section 2254  
11 Cases is deferred to until such time as he has fully complied with this order.

12 It is further ordered that within 45 days of the date of this order, Botelho must file  
13 an IFP application that includes a: (a) financial certificate signed by Petitioner and an  
14 authorized prison official, (b) financial declaration and acknowledgement signed by  
15 Petitioner, and (c) copy of Petitioner's inmate account statement for the six-month period  
16 prior to filing. Alternatively, Petitioner must pay the \$5 filing fee within 45 days. If Petitioner  
17 decides to pay the filing fee from his inmate account, he must arrange to have a copy of  
18 this order attached to the check for the filing fee.

19 It is further ordered that Botelho must file an amended petition on the Court's form  
20 within 45 days of the date of this order. He must place the case number, 3:22-cv-00191-  
21 MMD-CLB, in the designated space.

22 It is further ordered that the Clerk of the Court is directed to send Botelho blank  
23 copies of (1) the IFP application for incarcerated individuals, and (2) the form petition for  
24 a writ of habeas corpus pursuant to § 2254.

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27 <sup>1</sup>Petitioner at all times remains responsible for calculating the applicable statute of  
28 limitations. By ordering Petitioner to amend his petition, the Court makes no finding or  
representation that either the original or amended petition will be considered timely.

1 It is further ordered that Petitioner's failure to timely comply with this Order will result  
2 in the dismissal of the petition without prejudice and without further advance notice.

3 DATED THIS 9<sup>th</sup> Day of May 2022.

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6 MIRANDA M. DU  
7 CHIEF UNITED STATES DISTRICT JUDGE  
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